

HOUSE JOURNAL

SEVENTY-FOURTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SEVENTY-FIFTH DAY — WEDNESDAY, MAY 17, 1995

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 443).

Present — Mr. Speaker; Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Stiles; Swinford; Talton; Telford; Thompson; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Absent, Excused — Hernandez; Staples; Tillery.

The invocation was offered by Monsignor Al Doga, St. Edwards Catholic Church, Spring, as follows:

In the name of the Father and of the Son and of the Holy Spirit. Amen.

Let us pray. We ask your blessing, Almighty God, upon these representatives and beg that this blessing continue throughout this entire session.

Let the light of your divine wisdom direct the deliberations of these representatives, duly elected by their constituents, shine forth in all the proceedings and laws framed for our rule and government of this great Lone Star State of Texas.

May they seek to preserve peace, promote happiness throughout our state, and continue to bring us the blessings of social conditions and freedom nowhere known to such an extent.

We pray for George W. Bush, the governor of this great Lone Star State, and for all elected officials who are entrusted to guard our political welfare. May they be enabled by your powerful protection to discharge their duties with honesty and ability.

Finally, we commend to your unbounded mercy all of the citizens of this great state, that we may be blessed in the knowledge and sanctified in the

observance of your holy law. May we be preserved in union and that peace which the world cannot give; and, after enjoying the blessings of this life, be admitted to those which are eternal.

We pray to you, who are Lord and God, for ever and ever. Amen.

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for today because of important business:

Hernandez on motion of Puente.

The following member was granted leave of absence for today and tomorrow because of illness in the family:

Staples on motion of Torres.

The following member was granted leave of absence temporarily for today because of important business in the district:

Tillery on motion of Luna.

SIGNED BY THE SPEAKER

The speaker signed in the presence of the house, after giving due notice thereof, the following enrolled bills and resolutions:

HB 94, HB 172, HB 654, HB 795, HB 1157, HB 1226, HB 1271, HB 1505, HB 2020, HB 2093, HB 2182, HB 2283, HB 2507, HB 3116, HCR 69, HCR 91, HCR 102, HCR 175

HR 739

HR 739, in memory of Captain Jerry R. Foster, having been previously adopted, was read.

HR 956 - ADOPTED

Representative Elkins moved to suspend all necessary rules to take up and consider at this time **HR 956**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Elkins,

HR 956, Congratulating Jody Marie Allen and Frank Arthur Haskell on their marriage.

The resolution was adopted without objection.

HR 960 - ADOPTED

Representative Yarbrough moved to suspend all necessary rules to take up and consider at this time **HR 960**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Yarbrough,

HR 960, Congratulating Rebecca Lynn Ford on the occasion of her high school graduation.

The resolution was read and was adopted without objection.

HR 961 - ADOPTED

Representative Yarbrough moved to suspend all necessary rules to take up and consider at this time **HR 961**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Yarbrough,

HR 961, Honoring Denise Christine Phillips for her service as a legislative intern and congratulating her on her college graduation.

The resolution was read and was adopted without objection.

HR 923 - ADOPTED

Representative Munoz moved to suspend all necessary rules to take up and consider at this time **HR 923**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Munoz,

HR 923, Honoring Juan B. Alvarez for his outstanding military service during World War II.

The resolution was adopted without objection.

(Edwards in the chair)

HR 963 - ADOPTED

Representative Finnell moved to suspend all necessary rules to take up and consider at this time **HR 963**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

By Finnell,

HR 963, Declaring the week of May 14-20, 1995, as Santa Rosa Roundup Week in Texas.

The resolution was adopted without objection.

INTRODUCTION OF GUESTS

The chair recognized Representative Kuempel, who introduced Amy Grunwald, the 1995 Texas Junior Miss, and her parents.

HCR 175, honoring Amy Grunwald, having been previously adopted, was read.

Miss Grunwald addressed the house briefly.

(Speaker in the chair)

**PROVIDING FOR A CONGRATULATORY AND
MEMORIAL CALENDAR**

Representative Edwards moved to set a congratulatory and memorial calendar for 10 a.m. Friday, May 19.

The motion prevailed without objection.

HR 964 - ADOPTED

Representative Dukes moved to suspend all necessary rules to take up and consider at this time **HR 964**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Dukes,

HR 964, Commending the Executive Spell Check tournament benefiting the Delco Endowed Scholarship Fund.

The resolution was adopted without objection.

On motion of Representative Edwards, the names of all the members of the house were added to **HR 964** as signers thereof.

RESOLUTIONS REFERRED TO COMMITTEES

The following resolutions were laid before the house and referred to committees:

By Davis,

HR 942, Honoring the Sickle Cell Anemia Foundation of Dallas.

To Committee on Rules and Resolutions.

By Alexander,

HR 943, Honoring Athens Brick Company for its outstanding safety record.

To Committee on Rules and Resolutions.

By Hirschi,

HR 944, Congratulating the Wichita County Heritage Society on its receipt of a grant to restore the historic Kemp and Kell Railroad Depot.

To Committee on Rules and Resolutions.

By Brady,

HR 945, Honoring David Andis on the occasion of his graduation from the University of Houston Law Center.

To Committee on Rules and Resolutions.

By Raymond,

HR 949, In memory of Tony Reyes.

To Committee on Rules and Resolutions.

By McCall,

HR 950, Honoring Frank Fallon on his retirement as sports announcer for Baylor University.

To Committee on Rules and Resolutions.

By Madden,

HR 951, Honoring veterans of submarine duty during World War II.

To Committee on Rules and Resolutions.

By Farrar,

HR 952, Honoring the Martin Luther King Parade Foundation on the occasion of its Appreciation Awards Banquet and Ceremony.

To Committee on Rules and Resolutions.

By Tillery,

HR 953, Honoring Adam Stewart for his efforts to memorialize the victims of the Oklahoma City bombing.

To Committee on Rules and Resolutions.

By Pitts,

HR 954, In memory of Wilbert H. Meischen.

To Committee on Rules and Resolutions.

By Raymond,

HR 955, In memory of Captain Robert "Bobby" Smithwick, Jr., of the Jim Wells County Sheriff's Department.

To Committee on Rules and Resolutions.

By Bosse,

HR 959, Congratulating Kim McGruder.

To Committee on Rules and Resolutions.

By Eiland,

HCR 209, Designating the Lone Star Flight Museum of Galveston the Texas Aviation Hall of Fame.

To Committee on State, Federal, and International Relations.

SENATE BILLS ON FIRST READING

The following senate bills were today laid before the house, read first time, and referred to committees:

SB 34 to Committee on Judicial Affairs.

SB 718 to Committee on Public Health.

SB 1658 to Committee on Ways and Means.

SB 1704 to Committee on Land and Resource Management.

SB 1718 to Committee on Natural Resources.

RULES SUSPENDED

Representative Saunders moved to Suspend Rule 4, Section 18, of the House Rules to allow the minutes of the meeting of the Committee on Land and Resource Management, which was held on Friday, May 12, to be turned in today, May 17.

The motion prevailed without objection.

Representative Stiles moved to suspend all necessary rules for **SB 840** to be removed from the calendar for May 18.

The motion prevailed without objection.

CAPITOL PHYSICIAN

Speaker Laney presented Dr. Jack Edison of Weatherford as the "Doctor for the Day."

The house welcomed Dr. Edison and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

HCR 212 - ADOPTED

Representative Talton moved to suspend all necessary rules to take up and consider at this time **HCR 212**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Talton,

HCR 212

WHEREAS, House Bill No. 2015 has been adopted by the house of representatives and the senate; and

WHEREAS, The bill contains typographical errors that should be corrected; now, therefore, be it

RESOLVED, That the enrolling clerk of the house of representatives be hereby instructed to make the following corrections:

(1) In Section 1 of the bill, in added Section 5.053(b), Water Code, strike the reference to "subsection (l)" and substitute "Subsection (a)".

(2) In Section 3 of the bill, in amended Section 26.0291, Water Code, strike "(3)" identifying the last subsection of the section and substitute "(e)".

(3) In Section 4 of the bill, in added Section 26.134, Water Code, place a comma after "voluntary settlement agreement" in Subsection (b)(1); insert "be" immediately before "inconsistent" in Subsection (b)(3); and place a comma after "order" in Subsection (b)(4).

The resolution was adopted without objection.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Stiles moved to suspend all necessary rules to allow the Committee on Calendars to meet while the house is in session for the remainder of the session.

The motion prevailed without objection.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Calendars, 11:15 a.m. today, speakers committee room.

SB 95 ON SECOND READING
(Hilderbran - House Sponsor)

The speaker laid before the house, as postponed business, on its second reading and passage to third reading,

SB 95, A bill to be entitled An Act relating to the recall of an elected official in a general-law municipality.

SB 95 was read second time on May 15 and was postponed until 10 a.m. today.

Amendment No. 1

Representative Horn offered the following amendment to the bill:

Amend **SB 95** to read as follows:

(1) In SECTION 1, Section 27.002 (2), delete the language "90 days" and substitute the language "one year".

(2) In SECTION 1, Section 27.023 (a), delete the language "or the total vote received" and substitute the language "of the number of registered voters".

(3) In SECTION 1, Section 27.023 (a), delete the language ", by all candidates for mayor in the most recent municipal election".

(4) In SECTION 1, Section 27.024 (b), add the following sentence between the period and the quotation mark:

"the reason for recall is (state the reason) which occurred on or about (state the date of occurrence)."

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Chisum offered the following amendment to the bill:

Amend **SB 95** as follows:

(1) In SECTION 1 of the bill, in proposed Subchapter A, Chapter 27, Local Government Code (committee printing, page 1, between lines 19-20), add the following sections:

SEC. 27.003. APPLICATION FOR RECALL PETITION. (a) Ten or more registered voters of a municipality may apply to the county judge of a county in which the majority of the area of a municipality is located for the issuance of a recall petition. The application for a recall petition must identify the officer who is the subject of the recall petition and describe the reasons for seeking the recall petition.

(b) The county judge shall issue a recall petition only if the county judge determines that cause exists to believe the officer has taken some action that is a ground for removal from office under Section 27.004.

(c) If the county judge determines that cause exists under Subsection (b), the county clerk shall supply as many copies of the recall petition required by the applicants but not more than one page of the petition for each 10 registered voters in the municipality. The county clerk shall keep a copy of a petition and a record of the applicants for each petition.

(d) The date the petition is actually delivered to the applicants by the county clerk is the initial date of circulation of the petition for the purposes of this chapter.

(e) A recall petition is not valid and an election may not be ordered under Subchapter C unless the recall petition was issued under this subchapter.

Sec. 27.004. GROUNDS FOR REMOVAL. (a) The following are grounds for the recall and removal of an officer:

- (1) official misconduct;
- (2) intentional violation of a municipal ordinance;
- (3) habitual drunkenness;
- (4) incompetency; or
- (5) a cause prescribed by a municipal ordinance.

(b) In this section:

(1) "Incompetency" means:

(A) gross ignorance of official duties;

(B) gross carelessness in the discharge of official duties; or

(C) inability or unfitness to promptly and properly discharge official duties because of a serious mental or physical defect that did not exist at the time of the officer's election.

(2) "Official misconduct" means intentional unlawful behavior relating to official duties by an officer entrusted with the administration of justice or the execution of the law. The term includes an intentional or corrupt failure, refusal, or neglect of an officer to perform a duty imposed on the officer by law.

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Moffat offered the following amendment to the bill:

Amend **SB 95** by adding an appropriately numbered section to read as follows:

SECTION _____. Chapter 26, Local Government Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. DISCIPLINE AND REMOVAL OF MEMBERS OF GOVERNING BODY IN CERTAIN HOME-RULE MUNICIPALITIES

Sec. 26.201. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a home-rule municipality with a population of 60,000 or less.

Sec. 26.202. UNIFORM RECALL ELECTION PROCEDURES. (a) A municipality that provides, by ordinance or charter, for the recall of members of the governing body of the municipality must comply with the time limits or procedures that are prescribed by this section and are related to the recall election process.

(b) The clerk or secretary of the municipality or any other official who reviews a recall petition to determine its validity shall review and determine the validity of the petition not later than the fifth day after the date the petition is presented to the clerk, secretary, or other official.

(c) If a petition is determined valid under Subsection (b), the governing

body shall order the recall election not later than the second day after the date the determination is made. The election shall be held on the first Saturday that is not a legal holiday that occurs on or after the 21st day after the date of the governing body's order.

(d) If a majority of votes cast at a recall election are for the removal of the member of the governing body, the office in question becomes vacant one day after the date the result is canvassed and certified.

(e) A member of the governing body who is recalled may not be appointed, during the term from which the member is recalled, to fill a vacancy in the office for which the recall is made.

(f) This section supersedes any charter provision or ordinance of the municipality.

Sec. 26.203. CENSURE OF MEMBER OF GOVERNING BODY. (a) In this section, "official misconduct" means an intentional, unlawful act or an act that may reasonably be believed to be a violation of a federal, state, or municipal law or a violation of the duties of a member of the governing body.

(b) A member of a governing body may file a motion for censure against another member of the governing body for conduct that the member believes, in good faith, constitutes official misconduct.

(c) The filing of a motion for censure stays the governing body from taking any action on any matter related to the conduct at issue in the motion for censure.

(d) The stay may be lifted only if:

(1) the motion is withdrawn; or

(2) following a public hearing, a majority of the governing body or a majority of a censure panel determines that the motion is without merit.

(e) At a public hearing on a motion for censure, the member making the motion and the member named in the motion may present evidence and call or cross-examine witnesses.

(f) A member making a motion for censure and a member named in the motion are ineligible to vote on the motion for censure. If two-thirds or fewer of the members of the governing body are ineligible to vote on the motion for censure, the motion shall be decided by a censure panel.

(g) A censure panel shall be composed of the three former presiding officers of the governing body of the municipality who have most recently served as presiding officer and who are eligible to serve on the panel. A person is eligible to serve on the panel if the person:

(1) resides in the municipality; and

(2) does not currently hold any elective or appointive office.

(h) If a majority of the governing body or the censure panel finds the motion is well-founded, the governing body or the panel may censure, suspend, or expel the member.

(i) This section supersedes any charter provision or ordinance of the municipality.

Amendment No. 3 was adopted without objection.

SB 95, as amended, was passed to third reading.

SB 905 ON THIRD READING
(Dutton - House Sponsor)

The speaker laid before the house, as postponed business, on its third reading and final passage,

SB 905, A bill to be entitled An Act relating to royalty rates applicable to certain oil and gas properties on public lands.

The bill was read third time on May 16 and was postponed until 10 a.m. today.

A record vote was requested.

The bill was passed by (Record 444): 139 Yeas, 4 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Coleman; Combs; Conley; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Gallego; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Stiles; Swinford; Talton; Telford; Thompson; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Nays — Cook; Harris; Horn; Reyna.

Present, not voting — Mr. Speaker(C); Finnell.

Absent, Excused — Hernandez; Staples; Tillery.

Absent — Giddings; Moffat.

SB 10 ON THIRD READING
(Berlanga, Coleman, McDonald, Maxey, and Hirschi - House Sponsors)

The speaker laid before the house, on its third reading and final passage,

SB 10, A bill to be entitled An Act relating to development of a health care delivery system under the state Medicaid program that results in cost savings to the state.

A record vote was requested.

The bill was read third time and was passed by (Record 445): 111 Yeas, 24 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Clemons; Combs; Conley; Cook; Counts; Cuellar, H.; Cuellar, R.; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Harris; Hawley; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Hudson; Hunter, B.; Hunter, T.; Jackson; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Maxey; McCall; McCoulskey; McDonald; Moreno; Munoz; Naishtat; Oakley; Ogden; Oliveira; Park; Patterson; Pitts; Place; Price; Puente; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Smithee; Solis; Stiles; Telford; Thompson; Torres; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wolens; Yarbrough; Yost; Zbranek.

Nays — Averitt; Carona; Carter; Corte; Crabb; Culberson; Denny; Driver; Elkins; Hartnett; Heflin; Horn; Howard; Janek; Krusee; Moffat; Mowery; Nixon; Rabuck; Solomons; Talton; Turner, B.; Wohlgemuth; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hernandez; Staples; Tillery.

Absent — Chisum; Coleman; Craddick; Eiland; Hamric; Madden; Marchant; Pickett; Siebert; Swinford; Wilson.

STATEMENTS OF VOTE

When Record No. 445 was taken, I was across the room. I would have voted yes.

Coleman

When Record No. 445 was taken, I was in the house but away from my desk. I would have voted yes.

Craddick

When Record No. 445 was taken, I was in the house but away from my desk. I would have voted yes.

Hamric

When Record No. 445 was taken, I was in the house but away from my desk. I would have voted no.

Madden

When Record No. 445 was taken, I was in the house but away from my desk. I would have voted no.

Siebert

SB 45 ON THIRD READING (Wolens and Kamel - House Sponsors)

The speaker laid before the house, on its third reading and final passage,

SB 45, A bill to be entitled An Act relating to the punishment and eligibility for parole of certain defendants charged with sexual offenses.

The bill was read third time.

Amendment No. 1

Representative Wolens offered the following amendment to the bill:

Amend **SB 45** on 3rd reading by amending 2nd reading Amendment No. 1 by Place to **SB 45** as follows:

Amend SECTION 2, proposed Section 7(g), Article 42.18, Code of Criminal Procedure, by inserting "or a person convicted of an offense under Section 21.11(a)(1) or 22.021, Penal Code," between "parole" and "only" (House Floor Amendment No. 1, page 2, lines 18-19).

Amendment No. 1 was adopted without objection.

SB 45, as amended, was passed.

SB 14 ON SECOND READING

(Combs, Saunders, Black, Stiles, Hightower, et al. - House Sponsors)

The speaker laid before the house, on its second reading and passage to third reading, the complete committee substitute for **SB 14**.

CSSB 14, A bill to be entitled An Act relating to protecting private real property rights from certain actions of this state or a political subdivision of this state.

CSSB 14 was read second time.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Economic Development, on recess today, Desk 61.

Ways and Means, on recess today, Desk 70.

Insurance, on recess today, Desk 24.

County Affairs, on recess today, Desk 4.

Urban Affairs, on recess today, Desk 73.

Juvenile Justice and Family Issues, on recess today, Desk 21.

Rules and Resolutions, on recess today, Desk 133, to consider the calendar.

Natural Resources, on recess today, Desk 9.

Higher Education, on recess today, Desk 118, to consider **SB 585** and **SCR 124**.

Transportation, on recess today, Desk 22.

The meeting of the conference committee on HB 984 was postponed.

MESSAGE FROM THE SENATE

Austin, Texas, May 17, 1995

The Honorable Speaker of the House of Representatives
House Chamber

The Honorable
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

HJR 31 by Hartnett (Sponsor-Brown), proposing a constitutional amendment authorizing the exemption from ad valorem taxation of income-producing personal property and mineral interests having a value insufficient to recover the tax administrative costs.

HB 176 by Stiles (Sponsor-Armbrister), relating to components of net income used in establishing rates of a gas utility.

HB 366 by Hartnett (Sponsor-Brown), relating to the exemption from ad valorem taxation of income-producing tangible personal property and mineral interests having a value of less than a certain amount.

HB 673 by Thompson (Sponsor-Henderson), relating to the assignment of a former statutory probate court judge.

HB 674 by Craddick (Sponsor-Turner, Jim), relating to the eligibility of certain persons to serve as members of an appraisal review board.

HB 699 by Culberson, et al. (Sponsor-Haywood), relating to the eligibility of certain military veterans and other persons with military-related service and survivors of certain military veterans to an exemption from tuition, fees, and charges at a public institution of higher education if the person is in default of an educational loan made under a federal program (amended).

HB 869 by Maxey (Sponsor-Zaffirini), relating to coordinated delivery of health and human services programs (committee substitute).

HB 1136 by Hartnett (Sponsor-Wentworth), relating to the appointment of guardians of minors and certain incapacitated persons by will or written declaration.

HB 1341 by Stiles (Sponsor-Lucio), relating to the operation and funding of the Work and Family Policies Clearinghouse (amended).

HB 1399 by Gray (Sponsor-Sibley), relating to the continuation and functions of the Office of State-Federal Relations and to assistance for acquiring federal grants and other funds.

HB 1479 by Hilderbran and Coleman (Sponsor-Barrientos), relating to tuition and fee exemptions at public institutions of higher education and tuition credits at public and private institutions of higher education for certain students (committee substitute).

HB 2376 by Junell (Sponsor-Montford), relating to the transfer of certain property from the Texas Department of Public Safety to the City of San Angelo.

HB 3122 by Ogden (Sponsor-Turner, Jim), relating to debit cards provided to students of public institutions of higher education (committee substitute).

HB 668 by Junell, Hunter, Todd, Duncan, Gallego, et al. (Sponsor-Bivins), relating to civil remedies for deceptive trade practices and certain related consumer claims (committee substitute and amended).

HCR 204 by Krusee, honoring William Gooch on the occasion of his retirement.

I am directed by the Senate to inform the House that the Senate has refused to concur in House Amendments to **SB 1231** and requests the appointment of

a Conference Committee to adjust the differences between the two Houses.

The following have been appointed on the part of the Senate: Senator Armbrister, Chair, Senator Montford, Senator Sibley, Senator Leedom, and Senator Barrientos.

Respectfully,
Betty King
Secretary of the Senate

RECESS

Representative King moved that the house recess until 2 p.m. today.

The motion prevailed without objection.

The house accordingly, at 12:18 p.m., recessed until 2 p.m. today.

AFTERNOON SESSION

The house met at 2 p.m. and was called to order by the speaker.

CSSB 14 - (pending business)

Amendment No. 1

Representatives Combs, Counts, and Berlanga offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

- (1) On page 4, line 14, strike "or".
- (2) On page 4, line 21, strike the period and substitute "; or".
- (3) On page 4, between lines 21 and 22, insert the following:
(16) an action taken by a county.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representatives Combs and Kamel offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

- (1) On page 2, line 10, strike "and" and substitute "or".
- (2) On page 2, line 11, strike "taken".
- (3) On page 2, lines 12-13, strike "taken on or after September 1, 1995,".
- (4) On page 4, between lines 21 and 22, insert the following:

(c) This chapter applies only to a governmental action taken on or after January 2, 1996. This chapter does not apply to the enforcement or implementation of a statute, ordinance, order, rule, regulatory requirement, resolution, policy, guideline, or similar measure that was in effect before that date.

- (5) On page 15, strike lines 3-6 and substitute the following:

SECTION 6. (a) Except as provided by Subsection (b) of this section, this Act takes effect January 1, 1996.

(b) Section 2007.041, Government Code, as added by this Act, takes effect September 1, 1995.

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Combs offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

(1) On page 3, strike lines 14-15 and substitute the following:

(5) an action, including an action of a political subdivision, that is reasonably taken to fulfill an obligation mandated by federal law or an action of a political subdivision that is reasonably taken to fulfill an obligation mandated by state law;

(2) On page 11, strike lines 20-25 and substitute the following:

(b) A governmental entity is not required to prepare a takings impact assessment for an action taken by the governmental entity relating to:

(A) the disposition of an application or other request to issue, renew, reopen, transfer, amend, extend, withdraw, revoke, terminate, or modify a permit, license, certificate, registration, or other authorization or approval;

(B) the enforcement of a permit, license, certificate, registration, or other authorization or approval; or

(C) the enforcement of a statute, ordinance, order, rule, regulatory requirement, resolution, policy, guideline, or similar measure.

Amendment No. 3 was adopted without objection.

(Tillery now present)

Amendment No. 4

Representative Combs offered the following amendment to **CSSB 14**:

Amend **CSSB 14**, in SECTION 1 of the bill, at the end of proposed Subchapter A, Chapter 2007, Government Code (House Committee Report, page 6, line 3), by striking "[Sections 2007.007-2007.020 reserved for expansion]" and substituting the following:

Sec. 2007.007. REAL PROPERTY HELD IN TRUST BY STATE. A state agency that holds real property in trust under the Texas Constitution may file a suit or contested case regarding that property against a governmental entity, and is entitled to the applicable remedies, in the same manner provided by this chapter for a private real property owner.

[Sections 2007.008-2007.020 reserved for expansion]

Amendment No. 4 was adopted without objection.

Amendment No. 5

Representative Combs offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

(1) In SECTION 1 of the bill, in proposed Section 2007.021, Government Code, strike Subsection (a) (House Committee Report, page 6, lines 5-13) and substitute the following:

(a) A private real property owner whose property is the subject of a governmental action may bring suit under this subchapter to determine whether the governmental action of a political subdivision results in a taking under this

chapter. A suit under this subchapter must be filed in a district court in the county in which the private real property owner's affected property is located. If the affected private real property is located in more than one county, the private real property owner may file suit in any county in which the affected property is located.

(2) In SECTION 1 of the bill, in proposed Section 2007.024, Government Code, strike Subsection (a) (House Committee Report, page 7, lines 14-16) and substitute the following:

(a) A private real property owner whose property is the subject of a governmental action may file a contested case with a state agency to determine whether the governmental action of a state agency results in a taking under this chapter.

Amendment No. 6

Representative Dukes offered the following amendment to Amendment No. 5:

Amend Amendment No. 5 by Combs to **CSSB 14** as follows:

(1) On page 1, line 6 of the amendment, after the word "action" and before the word "may", insert "or whose property value is adversely affected by an action that creates a potential risk to public health".

(2) On page 1, line 18 of the amendment, after the word "action" and before the word "may", insert "or whose property value is adversely affected by an action that creates a potential risk to public health".

Representative Combs moved to table Amendment No. 6.

The motion to table prevailed. (Averitt recorded voting no)

Amendment No. 5 was adopted.

Amendment No. 7

Representative Combs offered the following amendment to **CSSB 14**:

Amend **CSSB 14** in SECTION 1 of the bill by striking proposed Section 2007.025, Government Code (House Committee Report, page 7, lines 24-27, and page 8, lines 1-7), and substituting the following:

Sec. 2007.025. ENTITLEMENT TO REMEDY AGAINST A STATE AGENCY. (a) Whether a governmental action of a state agency results in a taking is a question of fact.

(b) If the trier of fact in a contested case finds that the governmental action of a state agency is a taking under this chapter, the private real property owner is entitled to, and the state agency is liable for:

(1) invalidation, in whole or in part, of the governmental action of the state agency; or

(2) compensation for a taking as provided by this subchapter.

(Speaker pro tempore in the chair)

MESSAGE FROM THE SENATE

Austin, Texas, May 17, 1995

The Honorable Speaker of the House of Representatives
House Chamber

The Honorable
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

SCR 91 by Cain, urging Congress to enact HR 842, the "Truth in Budgeting Act."

Respectfully,
Betty King
Secretary of the Senate

CSSB 14 - (consideration continued)

Amendment No. 7 was adopted without objection.

Amendment No. 8

Representative Combs offered the following amendment to **CSSB 14**:

Amend **CSSB 14** in SECTION 1 of the bill, in proposed Section 2007.026, Government Code, by striking Subsection (d) (House Committee Report, page 9, lines 5-8) and substituting the following:

(d) A person who has exhausted all administrative remedies within the state agency and is aggrieved by a final decision or order relating to a claim to rescind a governmental action is entitled to judicial review under Chapter 2001. Review by a court under this subsection is by trial de novo.

(e) A person who has exhausted all administrative remedies within the state agency and is aggrieved by a final decision or order relating to a claim for compensation is entitled to judicial review under Chapter 2001. Review by a court under this subsection is under the substantial evidence rule.

Amendment No. 8 was adopted without objection.

Amendment No. 9

Representative Combs offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

(1) On page 3, strike lines 1-4 and substitute the following:

(3) an action, excluding annexation, by a municipality that has effect in the extraterritorial jurisdiction of the municipality and that enacts or enforces an ordinance, rule, regulation, or plan that does not impose identical requirements or restrictions in the entire extraterritorial jurisdiction of the municipality.

(2) On page 4, strike lines 3-12 and substitute the following:

(11) an action taken by a governmental entity under a state mandate to prevent waste of oil and gas, protect correlative rights of owners of interests in oil and gas, or prevent pollution related to oil and gas activities;

(12) a rule or proclamation adopted for the purpose of regulating water safety, hunting, fishing, or control of nonindigenous or exotic aquatic resources;

(13) an action taken by a political subdivision;

(A) to regulate construction in an area designated under law as a floodplain;

(B) to regulate on-site sewage facilities;

(C) under the political subdivision's statutory duty to prevent waste or protect correlative rights of owner of interest in ground water; or

(D) to prevent subsidence;

(3) On page 4, line 14, strike "or".

(4) On page 4, line 21, strike the period and insert "₃".

(5) On page 4, between lines 21 and 22, insert the following:

(16) an action taken by a drainage district or flood control district or by a governmental entity if the action is an action a drainage district or flood control district is authorized to take; or

(17) an action taken by a municipality, with a population of more than 900,000, in the extraterritorial jurisdiction of the municipality if the action is taken to prevent pollution of an aquifer or reservoir that is a drinking water source for the municipality.

Amendment No. 10

Representative Naishtat offered the following amendment to Amendment No. 9:

Amend Amendment No. 9 by Combs to **CSSB 14**, as follows:

(1) Strike part 1 of the amendment, substitute the following and renumber the subsequent parts of the amendment:

(1) On page 2, line 27, strike "₃; or" and substitute a period.

(2) On page 3, lines 1-4, strike Subsection 2007.003(a)(3).

(3) On page 3, lines 8-9, strike "except as provided by Subsection (a)(3)".

(4) On page 2, line 25, after the semicolon, add "or".

(2) In part 5 of the amendment, strike the proposed Subsection.

Representative Combs moved to table Amendment No. 10.

The motion to table prevailed.

Amendment No. 11

Representative Maxey offered the following amendment to Amendment No. 9:

Amend the Combs Amendment No. 9 to **CSSB 14** by amending the provision that adds item (17) on page 4 of the bill to strike "900,000" and substitute "\$400,000".

Representative Combs moved to table Amendment No. 11.

(Speaker in the chair)

The motion to table prevailed.

Amendment No. 9 was adopted without objection. (Brady and Hamric recorded voting no)

Amendment No. 12

Representative S. Turner offered the following amendment to **CSSB 14**:

Amend **CSSB 14** in Section 1 of the bill, in proposed Section 2007.002, Government Code, by inserting a new Subdivision (6) (House Committee Report, page 2, between lines 20 and 21) as follows:

(6) "Political subdivision" means a municipality, notwithstanding any other provision of this chapter.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for the remainder of today to attend a meeting of the conference committee on HB 1:

Delisi on motion of Brady.

Gallego on motion of Brady.

Ogden on motion of Brady.

The following members were granted leaves of absence temporarily for today to attend a meeting of the conference committee on HB 1:

Junell on motion of Brady.

Coleman on motion of Brady.

CSSB 14 - (consideration continued)

Amendment No. 12 was adopted without objection.

Amendment No. 13

Representative Yost offered the following amendment to **CSSB 14**:

Amend **CSSB 14**, SECTION 1, as follows:

At page 4, line 13, insert the following subdivision (14) between existing subdivisions (13) and (14), and renumber subsequent subdivisions accordingly:

"(14) an action taken by a district or authority created under Article XVI, Section 59, or Article III, Section 52, (Subsection (b), Subdivisions (1) and (2)), of the Texas Constitution;"

Amendment No. 13 was adopted without objection.

INTRODUCTION OF GUEST

The speaker recognized Representative Moreno, who introduced Belen Robles, the first woman president of LULAC in sixty-five years.

(Speaker pro tempore in the chair)

CSSB 14 - (consideration continued)

Amendment No. 14

Representative Maxey offered the following amendment to **CSSB 14**:

Amend **CSSB 14** in SECTION 1 of the bill, in proposed Section 2007.003, Government Code, by striking Subsection (b)(15) (House Committee Report, page 4, lines 15-21) and substituting the following:

(15) an action taken to protect public health or safety.

Representative Combs moved to table Amendment No. 14.

A record vote was requested.

The motion to table prevailed by (Record 446): 90 Yeas, 44 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Black; Brady; Brimer; Carona; Carter; Chisum; Clemons; Combs; Cook; Corte; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Dear; Denny; Driver; Duncan; Eiland; Elkins; Finnell; Glaze; Goodman; Goolsby; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Kamel; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Madden; Marchant; McCall; McCoulskey; Moffat; Mowery; Munoz; Nixon; Oakley; Park; Patterson; Pitts; Place; Rabuck; Ramsay; Raymond; Reyna; Rusling; Saunders; Shields; Siebert; Solomons; Stiles; Swinford; Talton; Telford; Turner, B.; Uher(C); Walker; West; Williamson; Willis; Wohlgemuth; Woolley; Yost; Zbraneck.

Nays — Alonzo; Alvarado; Bailey; Bosse; Conley; Danburg; Davila; Davis; De La Garza; Dukes; Dutton; Edwards; Ehrhardt; Farrar; Giddings; Greenberg; Hirschi; Hochberg; Hudson; Jones, J.; Longoria; Luna; Maxey; McDonald; Moreno; Naishtat; Oliveira; Pickett; Price; Puente; Rangel; Rhodes; Rodriguez; Romo; Serna; Solis; Thompson; Tillery; Torres; Turner, S.; Van de Putte; Wilson; Wolens; Yarbrough.

Present, not voting — Mr. Speaker.

Absent, Excused — Hernandez; Staples.

Absent, Excused, Committee Meeting — Coleman; Delisi; Gallego; Junell; Ogden.

Absent — Berlanga; Counts; Gray; Gutierrez; King; Sadler; Seidlits; Smithee.

Amendment No. 15

Representative Dukes offered the following amendment to **CSSB 14**:

Amend **CSSB 14**, in SECTION 1 of the bill, in proposed Section 2007.003, by striking Subsections (b)(14) and (b)(15) (House Committee Report, page 4, lines 13-21) and substituting the following":

(14) the appraisal of property for purposes of ad valorem taxation;

(15) an action that:

(A) is taken in response to a real and substantial threat to public health and safety;

(B) is designed to significantly advance the health and safety purpose; and

(C) does not impose a greater burden than is necessary to achieve the health and safety purpose; or

(16) an action taken to protect the State Cemetery.

Amendment No. 15 was adopted without objection.

Amendment No. 16

Representative Greenberg offered the following amendment to **CSSB 14**:

Amend **CSSB 14** in SECTION 1 of the bill, in proposed Section 2007.003, Government Code, by striking Subsections (b)(14) and (b)(15) (House Committee Report, page 4, lines 13-21) and substituting the following:

(14) the appraisal of property for purposes of ad valorem taxation;

(15) an action that:

(A) is taken in response to a real and substantial threat to public health and safety;

(B) is designed to significantly advance the health and safety purpose; and

(C) does not impose a greater burden than is necessary to achieve the health and safety purpose; or

(16) an action taken to protect children in child care facilities.

Representative Combs moved to table Amendment No. 16.

The motion to table prevailed.

Amendment No. 17

Representative Alonzo offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows: at page 4, line 22, add a new subsection

(16) an action taken by state or local government to protect longhorn cattle owned by the University of Texas System, or by student organizations at the University of Texas.

Representative Combs moved to table Amendment No. 17.

The motion to table prevailed.

Amendment No. 18

Representative Giddings offered the following amendment to **CSSB 14**:

Page 4 line 21

Chapter 2007.003 APPLICABILITY (a), Title 10, Government Code

Add Subsection (16) an action by a public school district

Amendment No. 18 was adopted without objection.

Amendment No. 19

Representative Van de Putte offered the following amendment to **CSSB 14**:

Amend **CSSB 14** (House Committee Report) as follows:

(1) On page 4, line 14 strike "or"

(2) On page 4, line 21 strike the period and insert "; or"

(3) On page 4, between line 21 and 22 insert the following subsection (16): "(16) an action taken to prevent or control lead poisoning in children under the age of ten (10)."

Representative Combs moved to table Amendment No. 19.

The motion to table prevailed.

Amendment No. 20

Representative Raymond offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows: on page 4, line 22 add new subsection 16 and renumber subsequent sections.

(16) an action taken to regulate industrial wastewater discharges, industrial air emissions, and industrial waste management activities.

Amendment No. 21

Representative Chisum offered the following amendment to Amendment No. 20:

Amend Amendment No. 20 by Raymond to **CSSB 14** in proposed Subdivision (16), between "taken" and "to", by inserting "by the Texas Natural Resource Conservation Commission".

Amendment No. 21 was adopted without objection.

Amendment No. 20, as amended, was adopted without objection.

Amendment No. 22

Representative Solis offered the following amendment to **CSSB 14**:

On page 4, line 22, add a new subsection 16 as follows:

(17) an action taken to reduce the incidence of neural tube defects.

Amendment No. 22 was withdrawn.

Amendment No. 23

Representative Solis offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

On page 4, line 22, add a new subsection as follows:

(16) actions taken by local governmental bodies receiving assistance from the State in the form of loans or grants to require or enforce minimum standards of wastewater disposal, potable water service and drainage in colonias.

Amendment No. 23 was adopted without objection.

Amendment No. 24

Representative Berlanga offered the following amendment to **CSSB 14**:

Amend **CSSB 14** on page 4, line 22 by adding new subsection 16, as follows:

(16) an action taken to protect domestic drinking water wells from contamination.

Amendment No. 24 was adopted without objection.

Amendment No. 25

Representative Zbranek offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

(1) On page 4, line 14, strike "or".

(2) On page 4, line 21, strike the period and substitute "; or".

(3) On page 4, between lines 21 and 22 insert the following:

(16) an action taken by the Texas Natural Resource Conservation

Commission to protect public health and safety from the operations of a commercial hazardous waste management facility.

Amendment No. 25 was adopted without objection.

Amendment No. 26

Representative Puente offered the following amendment to **CSSB 14**:

Amend **CSSB 14**, in SECTION 1 of the bill, in proposed Section 2007.021, by striking Subsection (b) (House Committee Report, page 6, lines 14-17) and substituting the following:

"(b) A suit under this subchapter must be filed not later than the 180th day after the date the private real property owner knew or should have known that the governmental action restricted or limited the owner's right in the private real property."

Amendment No. 26 was withdrawn.

Amendment No. 27

Representative Puente offered the following amendment to **CSSB 14**:

Amend **CSSB 14**, in SECTION 1 of the bill, in proposed Section 2007.026, Government Code, by striking Subsection (a) (House Committee Report, page 8, lines 8-13) and substituting the following:

"(a) Except as provided by Subsection (c), a final decision or order issued under Section 2007.024 that determines that a taking has occurred shall order the agency to rescind the governmental action as applied to the private real property owner not later than the 60th day after the date the decision or order is issued."

Amendment No. 27 was adopted without objection.

Amendment No. 28

Representative Pickett offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

(1) On page 4, line 14 (House Committee Printing), strike "or".
(2) On page 4, line 21 (House Committee Printing), strike the period and substitute "or".

(3) On page 4, between lines 21 and 22 (House Committee Printing) insert the following:

(16) an action that is taken to prohibit or restrict the proliferation of substandard housing in economically distressed areas as defined by Section 16.341, Water Code.

Amendment No. 28 was adopted without objection.

Amendment No. 29

Representative Puente offered the following amendment to **CSSB 14**:

Amend **CSSB 14** in SECTION 1 of the bill, by striking proposed Section 2007.027, Government Code (House Committee Report, page 9, lines 9-26), and substituting the following:

Sec. 2007.027. COMPENSATION AND COSTS. (a) Liability of a

governmental entity under this chapter is limited to the maximum amount available for injury to or destruction of property under the Texas Tort Claims Act (Chapter 101, Civil Practice and Remedies Code) for each governmental action that results in a taking.

(b) The compensation owed to the private real property owner in a suit or contested case filed under this subchapter is determined from the date of the taking and is the difference between the market value of the private real property determined as if the governmental action is not in effect and the market value of the private real property determined as if the governmental action is in effect, subject to Subsection (a).

(c) If the trier of fact determines that a governmental action resulted in a taking, and the governmental action has ceased or has been rescinded, amended, invalidated, or repealed, the private real property owner may recover compensation in an amount equal to the temporary or permanent economic loss sustained while the governmental action was in effect, subject to Subsection (a).

(d) The court or the state agency shall award a private real property owner who prevails in a suit or contested case filed under this subchapter reasonable prejudgment interest. Prejudgment interest under this subsection is calculated from the date of the taking.

Representative Combs moved to table Amendment No. 29.

A record vote was requested.

The motion to table prevailed by (Record 447): 85 Yeas, 51 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Black; Brady; Brimer; Carona; Carter; Chisum; Combs; Cook; Corte; Counts; Crabb; Craddick; Culbertson; Dear; Denny; Driver; Duncan; Eiland; Elkins; Finnell; Goolsby; Grusendorf; Hamric; Harris; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, R.; Madden; Marchant; McCall; McCoulskey; Moffat; Mowery; Nixon; Oakley; Park; Patterson; Pitts; Place; Rabuck; Ramsay; Reyna; Rhodes; Rusling; Saunders; Shields; Siebert; Smithee; Solomons; Stiles; Swinford; Talton; Telford; Turner, B.; Uher(C); Walker; West; Williamson; Willis; Wohlgemuth; Woolley; Yost; Zbraneck.

Nays — Alonzo; Bailey; Berlanga; Bosse; Conley; Cuellar, H.; Cuellar, R.; Davila; Davis; De La Garza; Dukes; Dutton; Edwards; Ehrhardt; Farrar; Giddings; Glaze; Gray; Greenberg; Gutierrez; Hirschi; Hochberg; Hudson; Jones, J.; Lewis, G.; Longoria; Luna; Maxey; McDonald; Moreno; Munoz; Naishtat; Oliveira; Pickett; Price; Puente; Rangel; Raymond; Rodriguez; Romo; Seidlits; Serna; Solis; Thompson; Tillery; Torres; Turner, S.; Van de Putte; Wilson; Wolens; Yarbrough.

Present, not voting — Mr. Speaker.

Absent, Excused — Hernandez; Staples.

Absent, Excused, Committee Meeting — Coleman; Delisi; Gallego; Junell; Ogden.

Absent — Clemons; Danburg; Goodman; Haggerty; Hill; Sadler.

STATEMENT OF VOTE

When Record No. 447 was taken, I was in the house but away from my desk. I would have voted yes.

Clemons

Amendment No. 30

Representative Puente offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

(1) In SECTION 1 of the bill, strike proposed Section 2007.023, Government Code (House Committee Report, page 6, lines 26-27, and page 7, lines 1-12), and substitute the following:

Sec. 2007.023. JUDGMENT AGAINST POLITICAL SUBDIVISION. The court's judgment in favor of a private real property owner in a suit under Section 2007.021 shall:

(1) establish the amount of compensation and interest owed by the political subdivision under this subchapter;

(2) order the political subdivision to certify to the court whether all compensation and interest owed under this subchapter have been paid; and

(3) enjoin the political subdivision from enforcing or continuing the governmental action as applied to the private real property owner until the date the political subdivision certifies to the court that all compensation and interest owed under this subchapter have been paid.

(2) In SECTION 1 of the bill, in proposed Section 2007.026, Government Code, strike Subsection (c) (House Committee Report, page 8, lines 19-27, and page 9, lines 1-4) and substitute the following:

(c) If the legislature has waived sovereign immunity to suit for compensation for a taking under this chapter, the final decision or order shall:

(1) establish the amount of compensation and interest owed by the state agency under this subchapter;

(2) order the state agency to certify whether all compensation and interest owed under this subchapter have been paid; and

(3) enjoin the state agency from enforcing or continuing the governmental action as applied to the private real property owner until the date the state agency certifies that all compensation and interest owed under this subchapter have been paid.

(3) In SECTION 1 of the bill, strike the heading to proposed Section 2007.027, Government Code (House Committee Report, page 9, line 9), and substitute the following:

Sec. 2007.027. COMPENSATION AND PREJUDGMENT INTEREST.

(4) In SECTION 1 of the bill, in proposed Section 2007.027, Government Code, strike Subsection (c) (House Committee Report, page 9, lines 22-26) and substitute the following:

(c) The court or the state agency shall award a private real property owner who prevails in a suit or contested case filed under this subchapter reasonable prejudgment interest. Prejudgment interest under this subsection is calculated from the date of the taking.

(5) In SECTION 1 of the bill, in proposed Section 2007.044, Government Code, strike Subsection (c) (House Committee Report, page 12, line 27, and page 13, lines 1-2).

Representative Combs moved to table Amendment No. 30.

The motion to table prevailed.

Amendment No. 31

Representative Price offered the following amendment to **CSSB 14**:

Amend **CSSB 14** in SECTION 1 of the bill, in the added Subchapter B, Chapter 2007, Government Code (House Committee Report, page 9, between lines 26 and 27) by adding Section 2007.028 to read as follows:

Sec. 2007.028. RECOVERY OF ATTORNEY'S FEES AND COURT COSTS BY GOVERNMENTAL ENTITY. In a suit or contested case brought under this chapter, a governmental entity that substantially prevails in the suit or case shall be awarded reasonable and necessary attorney's fees and court costs.

Amendment No. 31 was adopted without objection.

Amendment No. 32

Representative Hirschi offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

- (1) On page 11, line 3, strike "copy" and substitute "brief outline".
- (2) On page 11, line 12, strike "copy" and substitute "brief outline".

Amendment No. 32 was adopted without objection.

Amendment No. 33

Representative Greenberg offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

(1) In SECTION 1 of the bill, in proposed Section 2007.043, Government Code, strike Subsections (a) and (b) (House Committee Report, page 11, lines 14-25) and substitute the following:

(a) The comptroller shall prepare a written takings impact assessment that complies with the evaluation guidelines developed by the attorney general under Section 2007.041 before the state agency proposing the action provides the public notice required under Section 2007.042.

(b) Except as provided by this subsection, a political subdivision shall prepare a written takings impact assessment that complies with the evaluation guidelines developed by the attorney general under Section 2007.041 before the political subdivision provides the public notice required under Section 2007.042. A political subdivision is not required to prepare a takings impact assessment for an action taken by the political subdivision that is reasonably taken to fulfill an obligation mandated by state law but must prepare instead a statement that describes the state law mandate and cites the statute or rule under which the mandate is imposed.

(2) In SECTION 1 of the bill, strike proposed Section 2007.045,

Government Code (House Committee Report, page 13, lines 3-7), and substitute the following:

Sec. 2007.045. STATE AGENCY RULEMAKING. A state agency that proposes to adopt a rule that may result in a taking as indicated by the takings impact assessment shall request the comptroller to update the assessment of the rule if the rule is not adopted before the 180th day after the date the notice is given as required by Section 2001.023.

Representative Combs moved to table Amendment No. 33.

The motion to table prevailed.

Amendment No. 34

Representative Danburg offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

(2) Add a new SECTION 7 to the bill (House Committee Report, page 15, between lines 6 and 7) to read as follows:

SECTION 7. (a) On or before January 1, 1997, the comptroller shall report to the governor, lieutenant governor, and speaker of the house of representatives the costs to governmental entities associated with implementation of this Act.

(b) At a minimum, the report shall include:

(1) the cost of preparing to defend and defending suits or contested cases filed under Sections 2007.021 and 2007.024, Government Code, as added by this Act;

(2) the amount of judgments awarded under Sections 2007.023 and 2007.026, Government Code, as added by this Act;

(3) the costs of preparing takings impact assessments under Section 2007.043, Government Code, as added by this Act;

(4) the costs incurred by the attorney general for preparation of the guidelines required under Section 2007.041, Government Code, as added by this Act; and

(5) other costs incurred by governmental entities associated with the implementation of this Act.

(c) A governmental entity subject to this Act shall provide the comptroller with:

(1) complete documentation of costs described by this section; and

(2) full cooperation in preparation of the report described by this section.

(3) Renumber existing SECTION 7 of the bill (House Committee Report, page 15, line 7) as SECTION 8.

Amendment No. 34 was adopted without objection.

Amendment No. 35

Representative Price offered the following amendment to **CSSB 14**:

Amend **CSSB 14**, on page 2, line 18, (House Committee Printing) between "the" and "cause", by inserting "sole".

Amendment No. 35 was adopted without objection.

Representative Dukes moved to reconsider the vote by which Amendment No. 5 was adopted.

(Speaker in the chair)

Representative Combs moved to table the motion to reconsider.

The motion to table prevailed.

CSSB 14, as amended, was passed to third reading. (Oliveira and Price recorded voting no; Brady, yes)

REASON FOR VOTE

I voted in favor of **SB 14**, but I strongly oppose the author's amendment which removes annexation as a regulatory taking within the extraterritorial jurisdiction. Annexation, improperly applied, is one of the greatest threats to private property rights.

Brady

SB 640 ON SECOND READING (Holzheuser - House Sponsor)

The speaker laid before the house, on its second reading and passage to third reading, the complete committee substitute for **SB 640**.

CSSB 640, A bill to be entitled An Act relating to the imposition, collection, and enforcement of taxes; providing penalties.

CSSB 640 was read second time.

Amendment No. 1

Representative Holzheuser offered the following amendment to **CSSB 640**:

Amend **CSSB 640** on page 2 line 11 by inserting the following and renumbering subsequent accordingly:

SECTION 5. Section 151.0036, Tax Code, is amended by adding Subsection (c) to read as follows:

(c) "Debt collection service" includes the service performed for which a fee is collected under Chapter 617, Acts of the 68th Legislature, Regular Session, 1983 (Article 9022, Vernon's Texas Civil Statutes). The person collecting the check shall add the amount of the tax to the fee in accordance with Section 151.052 and shall collect the fee from the drawer or endorser of the check.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Holzheuser offered the following amendment to **CSSB 640**:

Amend **CSSB 640** as follows:

- (1) On page 3, line 5, strike the word "produce" and insert "product".
- (2) On page 10, line 6, between "(c)" and the word "to" insert "and (d)".

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Holzhauser offered the following amendment to **CSSB 640**:

Amend **CSSB 640** as follows:

1. On page 22, line 4, insert the following as SECTION 25, and renumber the remaining SECTIONS accordingly:

SECTION 25. Section 153.205, Tax Code, is amended by adding a new subsection (j), to read as follows:

(j) A sale of diesel fuel may be made without collecting tax to a purchaser who operates one or more motor vehicles on the public highway, and who furnishes to a permitted supplier a signed statement only as provided in this subsection.

(1) The statement must stipulate that all the diesel fuel will be consumed by the purchaser for purposes other than operating a motor vehicle on the public highway, and that no diesel fuel purchased on a signed statement will be resold or delivered into the fuel supply tanks of a motor vehicle.

(2) Diesel fuel which may be sold without collection of tax under this subsection must be of a type that may not be legally used by the purchaser for the operation of a motor vehicle on the public highway under state or federal law.

(3) Subsections (a), (c)(3), and (d) do not apply to sales of fuel under this subsection.

2. On page 22, line 16, insert the following as SECTION 26 and renumber the remaining SECTIONS accordingly:

SECTION 26. Section 153.210, Tax Code, is amended by adding subsection (c), to read as follows:

(c) A person who holds a diesel prepaid user permit may elect to qualify under this subsection for a nonrefundable credit.

(1) At the time a person applies to renew a diesel prepaid user permit, the person may present to the comptroller a distribution log reflecting the items of information described in (c)(5) concerning fuel delivered into the motor vehicle for which the permit is issued during the period covered by the permit.

(2) the comptroller shall compute the amount of tax due on the amount of fuel shown on the log and if that amount is less than the amount paid for the permit, the permit holder shall be entitled to a credit for the difference.

(3) A credit claimed under this section may be applied only against the renewal or purchase of another diesel prepaid user permit for the following year, and in no case may the amount of the credit be refunded.

(4) The comptroller may require supporting evidence and may examine the permit holder's records either before or after issuance of a permit to determine the amount of tax due. The comptroller may by rule prescribe other items of information a person must submit under this subsection.

(5) Information required to be submitted under this subsection includes:

(A) the date of delivery of the fuel into the motor vehicle;

(B) the number of gallons delivered;

(C) the odometer reading of the motor vehicle at the time of delivery;

(D) the state highway license number or motor vehicle identification number.

3. On page 26, line 3, after "fuel" insert "of a type that may be legally used by the purchaser for the operation of a motor vehicle on the public highway under state or federal law".

4. On page 29, line 25, after "fuel", insert "of a type that may be legally used by the purchaser for the operation of a motor vehicle on the public highway under state or federal law".

Amendment No. 3 was adopted without objection.

Amendment No. 4

Representative Danburg offered the following amendment to **CSSB 640**:

Add a new SECTION at line 4 on page 2 of **CSSB 640** and renumber all remaining SECTIONS accordingly, the new SECTION to read as follows:

"SECTION 4. Section 151.0038, Tax Code, is amended to read as follows:
Sec. 151.0038. "Information Service."

(a) "Information service" means:

(1) furnishing general or specialized news or other current information, including financial information, unless furnished to

(A) a newspaper or to a radio or television station licensed by the Federal Communications Commission; or

(B) a member of a homeowners association of a residential subdivision or condominium development, and is furnished by the association or on behalf of the association; or

(2) electronic data retrieval or research.

(b) In this section, "newspaper" has the meaning assigned by Section 151.319(f)."

Amendment No. 4 was withdrawn.

Amendment No. 5

Representative Kuempel offered the following amendment to **CSSB 640**:

Amend **CSSB 640** as follows:

(1) Insert the following appropriately numbered sections to the bill to read as follows:

SECTION____. Section 324.099, Local Government Code, is amended by adding Subsections (j) and (k) to read as follows:

(j) The board may settle a claim for a penalty or interest accrued on a tax imposed by this chapter if the board finds that the revenue permit holder exercised reasonable diligence to comply with this chapter.

(k) The district may impose different tax rates for the different types of services and different types of rental items to which Subsection (b)(3) applies but none of the rates may exceed the maximum rate provided by that subsection.

(2) Renumber subsequent sections of the bill accordingly.

Amendment No. 5 was adopted without objection.

Amendment No. 6

Representative Carter offered the following amendment to **CSSB 640**:

Amend **CSSB 640** (House Committee Report) by adding an appropriately numbered section, and renumbering subsequent sections, to read as follows:

SECTION . Section 351.001(8), Tax Code, as added by Section 1, Chapter 620, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(8) "Eligible central municipality" means a municipality with a population of more than 440,000 located in a county with a population of more than 1,000,000 ~~[850,000]~~ that has adopted a capital improvement plan for the expansion of an existing convention center facility.

Representative Holzheuser moved to table Amendment No. 6.

A record vote was requested.

The motion to table prevailed by (Record 448): 78 Yeas, 51 Nays, 1 Present, not voting.

Yeas — Alexander; Alvarado; Berlanga; Black; Brady; Carona; Chisum; Clemons; Combs; Corte; Counts; Crabb; Craddick; Culberson; Danburg; Duncan; Eiland; Elkins; Finnell; Glaze; Goolsby; Gray; Grusendorf; Hamric; Harris; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hirschi; Holzheuser; Horn; Howard; Hunter, B.; Jackson; Janek; Johnson; Kamel; King; Krusee; Kuempel; Madden; Marchant; McCoulskey; McDonald; Moffat; Nixon; Oakley; Oliveira; Patterson; Pitts; Place; Rabuck; Ramsay; Rangel; Reyna; Rhodes; Romo; Saunders; Shields; Siebert; Solomons; Stiles; Swinford; Talton; Telford; Thompson; Uher; Van de Putte; Walker; Williamson; Willis; Wilson; Wohlgemuth; Wolens; Woolley.

Nays — Alonzo; Bailey; Brimer; Carter; Conley; Cook; Cuellar, H.; Cuellar, R.; Davila; Davis; De La Garza; Dear; Denny; Driver; Dutton; Edwards; Ehrhardt; Farrar; Giddings; Goodman; Gutierrez; Haggerty; Hill; Jones, J.; Kubiak; Lewis, G.; Lewis, R.; Longoria; Luna; Maxey; McCall; Moreno; Mowery; Munoz; Naishtat; Park; Pickett; Puente; Raymond; Rodriguez; Rusling; Sadler; Serna; Smithee; Solis; Tillery; Torres; West; Yarbrough; Yost; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hernandez; Staples.

Absent, Excused, Committee Meeting — Coleman; Delisi; Gallego; Junell; Ogden.

Absent — Allen; Averitt; Bosse; Dukes; Greenberg; Hochberg; Hudson; Hunter, T.; Jones, D.; Price; Seidlits; Turner, B.; Turner, S.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 448. I intended to vote no.

Moffat

I was shown voting yes on Record No. 448. I intended to vote no.

Van de Putte

When Record No. 448 was taken, I was in the house but away from my desk. I would have voted yes.

Greenberg

(Coleman now present)

Amendment No. 7

Representative Coleman offered the following amendment to **CSSB 640**:

Amend **CSSB 640** by adding the following section, appropriately numbered, to read as follows and renumbering subsequent sections accordingly:

SECTION____. Subtitle C, Title 3, Tax Code, is amended by adding Chapter 325 to read as follows:

CHAPTER 325. MUNICIPAL FEE ON RENTAL OF MOTOR VEHICLE SUBCHAPTER A. GENERAL PROVISIONS

Sec. 325.001. DEFINITIONS. (a) In this chapter:

(1) "Convention center facility" means an improvement such as a convention center, county owned stadiums and sports facilities, civic center, civic center building, civic center hotel, auditorium, theater, opera house, music hall, exhibition hall, museum, municipally owned zoo park, aquarium, and plaza located in the vicinity of a municipally owned convention center and facility. The term includes a structure, area, or other facility used in connection with an improvement for the parking or storage of motor vehicles or other conveyances.

(2) "Motor vehicle" means a self-propelled vehicle designed principally to transport persons or property on a public roadway and includes a passenger car, van, station wagon, sports utility vehicle, and truck. The term does not include a:

(A) trailer, semitrailer, house trailer, truck having a manufacturer's rating of more than one-half ton, or road-building machine;

(B) device moved only by human power;

(C) device used exclusively on stationary rails or tracks;

(D) farm machine; or

(E) mobile office.

(3) "Place of business of the owner" means an established outlet, office, or location operated by the owner of a motor vehicle or the owner's agent or employee for the purpose of renting motor vehicles and includes any location at which three or more rentals are made during a year.

(4) "Rental" means an agreement by the owner of a motor vehicle to authorize for not longer than 30 days the exclusive use of that vehicle to another for consideration.

(b) Except as provided by Subsection (a), words used in this chapter and defined by Chapter 152 have the meanings assigned by Chapter 152.

Sec. 325.002. APPLICATION OF CHAPTER. This chapter applies only in a municipality that has a population of 900,000 or more that is principally located in a county that is not adjacent to a county with a population of more than one million, and to a county with a population of 2,100,000 or more.

[Sections 325.003-325.100 reserved for expansion]

SUBCHAPTER B. IMPOSITION OF GROSS RENTAL RECEIPTS FEES BY MUNICIPALITY

Sec. 325.101. FEE AUTHORIZED. (a) A municipality by ordinance or

a county by order may impose a fee on the gross rental receipts from the rental of a motor vehicle as a street rental charge for the operation of a rental motor vehicle on municipal streets or county streets.

(b) A municipality by ordinance or a county by order may repeal or increase or decrease the rate of a fee imposed under Subsection (a).

Sec. 325.102. SHORT-TERM RENTAL FEE. The fee authorized by this chapter may be imposed at a rate in increments of one-eighth of one percent, not to exceed three percent, on the gross rental receipts from the rental of a motor vehicle within the municipality, and one percent on the gross rental receipts from the rental within the county.

[Sections 325.103-325.200 reserved for expansion]

SUBCHAPTER C. COMPUTATION OF FEES

Sec. 325.201. COMPUTATION OF FEE. (a) The owner of a motor vehicle subject to the fee imposed under this chapter shall collect the fee for the benefit of the municipality or county.

(b) The owner shall add the municipal or county short-term motor vehicle rental fee imposed by the municipality or county under this chapter, if applicable, and the gross rental receipts tax imposed by Chapter 152 to the rental charge, and the sum of the fee and tax is a part of the rental charge, a debt owed to the motor vehicle owner by the person renting the vehicle, and recoverable at law in the same manner as the rental charge.

Sec. 325.202. CONSUMMATION OF RENTAL. A rental of a motor vehicle occurs within the municipality or county in which transfer of possession of the motor vehicle occurs.

Sec. 325.203. EXEMPTIONS APPLICABLE. (a) The exemptions provided by Subchapter E, Chapter 152, apply to the fee authorized by this chapter.

(b) In addition to the exemptions provided by Subsection (a), the fee imposed under this chapter does not apply to the rental of a motor vehicle:

(1) owned by a motor vehicle dealer who is principally engaged in selling new motor vehicles and any used motor vehicles the dealer takes as trade-ins for the new motor vehicles sold; or

(2) used as a temporary replacement for a motor vehicle being repaired at a repair facility located in the municipality.

(c) The municipality by ordinance or county by order may exempt residents of the municipality from the fee imposed under this chapter. The ordinance or order exempting residents may establish a procedure that requires a resident claiming the exemption to execute an affidavit swearing to the person's residency in the municipality and to present a valid Texas driver's license as evidence.

(d) In this section, "dealer" and "new motor vehicle" have the meanings assigned by Section 1.03, Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes).

Sec. 325.204. GROSS RECEIPTS PRESUMED SUBJECT TO FEE. All gross receipts of an owner of a motor vehicle from the rental of a motor vehicle are presumed to be subject to the fee imposed by this chapter, except for gross receipts for which the owner has accepted in good faith a properly completed exemption certificate.

Sec. 325.205. RECORDS. (a) The owner of a motor vehicle used for rental purposes shall keep for four years records and supporting documents containing the following information on the amount of:

(1) gross rental receipts received from the rental of the motor vehicle; and

(2) the fee imposed under this chapter and paid to the municipality on each motor vehicle used for rental purposes by the owner.

(b) Mileage records are not required.

Sec. 325.206. FAILURE TO KEEP RECORDS. (a) An owner of a motor vehicle commits an offense if the owner fails to make and retain complete records for the four-year period required by Section 325.205.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$25 or more than \$500.

[Sections 325.207-325.300 reserved for expansion]

SUBCHAPTER D. ADMINISTRATION OF FEES

Sec. 325.301. FEE COLLECTION; PENALTY. (a) The owner of a motor vehicle required to collect the fee imposed under this chapter shall report and send the fees collected to the municipality or county as provided by the ordinance or rule imposing the fee.

(b) If the owner fails to report when required or pay the fee when due, the owner shall pay a penalty of five percent of the amount of the fee due. If the owner fails to file the report or pay the fee before the 31st day after the date the report or fee payment is due, the owner shall pay an additional penalty of five percent of the amount of the fee due.

(c) Delinquent fees and accrued penalties draw interest at an annual rate of 10 percent beginning 60 days after the date the fee is due.

(d) The municipal or county attorney or other attorney acting for the municipality or county may bring suit against an owner of a motor vehicle who is required to collect the fee imposed under this chapter and pay the collections over to the municipality or county and who fails to file a fee report or pay the fee when due to collect the fee not paid or to enjoin the person from operating a motor vehicle rental business in the municipality until the fee is paid or the report filed, as applicable, as provided by the court's order. The remedy provided by this subsection is in addition to other available remedies.

Sec. 325.302. COLLECTION PROCEDURES ON PURCHASE OF MOTOR VEHICLE RENTAL BUSINESS. (a) If the owner of a motor vehicle rental business that makes rentals subject to the fee imposed by this chapter sells the business, the successor to the seller or the seller's assignee shall withhold an amount of the purchase price sufficient to pay the amount due until the seller provides a receipt by a person designated by the municipality or county to provide the receipt showing that the amount has been paid or a certificate showing that no fee is due.

(b) The purchaser of a motor vehicle rental business who fails to withhold an amount of the purchase price as required by this section is liable for the amount required to be withheld to the extent of the value of the purchase price.

(c) The purchaser of a motor vehicle rental business may request that the person designated by the municipality or county to provide a receipt under Subsection (a) issue a certificate stating that no fee is due or issue a statement

of the amount required to be paid before a certificate may be issued. The person designated by the municipality or county shall issue the certificate or statement not later than the 60th day after the date the person receives the request.

(d) If the person designated by the municipality or county to provide a receipt under Subsection (a) fails to issue the certificate or statement within the period provided by Subsection (c), the purchaser is released from the obligation to withhold the purchase price or pay the amount due.

Sec. 325.303. REIMBURSEMENT FOR FEE COLLECTION EXPENSES.

(a) A municipality or county may permit a person who is required to collect and pay over to the municipality or county the fee authorized by this chapter to retain not more than one percent of the amount collected and required to be reported as reimbursement to the person for the costs in collecting the fee.

(b) A municipality or county may provide that the person may retain the amount authorized by Subsection (a) only if the person pays the fee and files reports as required by the municipality.

[Sections 325.304-325.400 reserved for expansion]

SUBCHAPTER E. REVENUE USE

Sec. 325.401. USE OF FEE REVENUE. Revenue from the fee imposed under this chapter may be used only to promote the arts, tourism, and the convention and hotel industry, and that use is limited to:

(1) the acquisition of sites for and the acquisition, construction, improvement, enlargement, equipment, repair, operation, programming, and maintenance of convention center facilities;

(2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants; and

(3) advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or county or its vicinity.

Sec. 325.402. PLEDGE FOR BONDS. Subject to the limitations provided by this subchapter, a municipality may pledge the revenue derived from the fee imposed under this chapter for the payment of bonds issued for one or more of the purposes prescribed by Section 325.401 by:

(1) the municipality under Chapter 63, Acts of the 59th Legislature, Regular Session, 1965 (Article 1269j-4.1, Vernon's Texas Civil Statutes); or

(2) a nonprofit corporation created by the municipality under Section 4A or 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), or Section 4A, Texas Transportation Corporation Act (Article 1528I, Vernon's Texas Civil Statutes)

(3) or the county through any legally authorized bonding procedure.

Sec. 325.403. CONTRACTS. (a) The governing body of a municipality or county may contract with a person, including another governmental entity or a private organization, for the construction, operation, management, or supervision of a program, activity, or project funded with revenue from the fee imposed under this chapter.

(b) The governing body in writing shall approve in advance the annual budget of the person with which it contracts for those functions and shall require the person to make periodic reports to the governing body at least

quarterly listing the expenditures made by the person with revenue from the fee imposed under this chapter.

(c) The person must keep revenue provided from the fee imposed under this chapter in a separate account established for that purpose and may not commingle that revenue with any other money.

(d) The municipality or county may not delegate to any person the management or supervision of its convention and visitors programs and activities funded with revenue from the fee imposed under this chapter other than by contract as provided by this section. The approval by the governing body of the municipality or county of the annual budget of the person to whom the governing body contracts those functions creates a fiduciary duty in the person with respect to the revenue provided by the fee imposed under this chapter.

Amendment No. 8

Representative Davis offered the following amendment to Amendment No. 7:

Amend Floor Amendment No. 7 by Coleman to **CSSB 640** on page 2 by striking lines 18 and 19 and adding a period at the end of line 17.

Amendment No. 8 was withdrawn.

Representative Holzheuser moved to table Amendment No. 7.

A record vote was requested.

The motion to table prevailed by (Record 449): 84 Yeas, 48 Nays, 4 Present, not voting.

Yeas — Alexander; Allen; Averitt; Berlanga; Black; Brimer; Carona; Carter; Chisum; Clemons; Combs; Cook; Corte; Counts; Craddick; Culbertson; Dear; Denny; Driver; Duncan; Dutton; Elkins; Finnell; Goodman; Goolsby; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Holzheuser; Horn; Hunter, B.; Jackson; Janek; Johnson; Jones, D.; Kamel; Krusee; Kubiak; Kuempel; Lewis, R.; Madden; Marchant; McCall; Moffat; Mowery; Nixon; Oliveira; Park; Patterson; Pitts; Place; Rabuck; Ramsay; Reyna; Rhodes; Rusling; Saunders; Shields; Siebert; Smithee; Solomons; Stiles; Swinford; Talton; Tillery; Turner, B.; Uher; Walker; West; Williamson; Willis; Wohlgemuth; Wolens; Woolley; Yost.

Nays — Alonzo; Alvarado; Bailey; Brady; Coleman; Conley; Cuellar, H.; Cuellar, R.; Danburg; Davila; Davis; De La Garza; Dukes; Edwards; Ehrhardt; Eiland; Farrar; Glaze; Gray; Hirschi; Hochberg; Hunter, T.; Jones, J.; Lewis, G.; Longoria; Luna; Maxey; McCoulskey; McDonald; Naishtat; Oakley; Pickett; Puente; Rangel; Raymond; Rodriguez; Romo; Sadler; Serna; Solis; Telford; Thompson; Torres; Turner, S.; Van de Putte; Wilson; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C); Crabb; Giddings; Greenberg.

Absent, Excused — Hernandez; Staples.

Absent, Excused, Committee Meeting — Delisi; Gallego; Junell; Ogden.

Absent — Bosse; Howard; Hudson; King; Moreno; Munoz; Price; Seidlits.

Amendment No. 9

Representative Wohlgemuth offered the following amendment to **CSSB 640**:

Amend **CSSB 640** as follows:

Add new section 64 and 65 and renumber subsequent sections accordingly
SECTION 64. Section 151.027(c), Tax Code, is amended to read as follows:

(c) This section does not prohibit:

(1) the examination of information, if authorized by the comptroller, by another state officer or law enforcement officer, by a tax official of another state, or by an official of the United States if a reciprocal agreement exists;

(2) the delivery to a taxpayer, or a taxpayer's authorized representative, of a copy of a report or other paper filed by the taxpayer under this chapter;

(3) the publication of statistics classified to prevent the identification of a particular report or items in a particular report;

(4) the use of records, reports, or information secured, derived, or obtained by the attorney general or the comptroller in an action under this chapter against the same taxpayer who furnished the information; ~~or~~

(5) the delivery to a successor, receiver, executor, administrator, assignee, or guarantor of a taxpayer of information about items included in the measure and amounts of any unpaid tax or amounts of tax, penalties, and interest required to be collected; or

(6) the delivery of information to an eligible municipality in accordance with Section 321.3022.

SECTION 65. Subchapter D, Chapter 321, Tax Code, is amended by adding Section 321.3022 to read as follows:

Sec. 321.3022. TAX INFORMATION. (a) The comptroller on request shall provide to a municipality that has adopted a tax under this chapter and that has a population of less than 50,000 information relating to the amount of tax paid to the municipality under this chapter during the preceding or current calendar year by each person doing business in the municipality who annually remits to the comptroller state and local sales tax payments of more than \$100,000.

(b) A request for information under this section must be made in writing by the municipality's mayor or chief administrative officer.

(c) Information received by a municipality under this section is confidential, is not open to public inspection, and may be used only for the purpose of economic forecasting.

(d) The comptroller may set and collect from a municipality reasonable fees to cover the expense of compiling and providing information under this section.

Representative Holzhauser moved to table Amendment No. 9.

A record vote was requested.

The motion to table was lost by (Record 450): 22 Yeas, 105 Nays, 3 Present, not voting.

Yeas — Allen; Alvarado; Danburg; Goolsby; Gray; Grusendorf; Hightower; Holzheuser; Horn; Hunter, B.; Johnson; Marchant; Rabuck; Romo; Talton; Telford; Thompson; Turner, S.; Uher; Willis; Wilson; Yarbrough.

Nays — Averitt; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Combs; Conley; Cook; Corte; Counts; Crabb; Craddock; Cuellar, H.; Cuellar, R.; Culberson; Davis; De La Garza; Dear; Denny; Driver; Dukes; Duncan; Dutton; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Giddings; Glaze; Greenberg; Gutierrez; Haggerty; Hamric; Harris; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hirschi; Howard; Hunter, T.; Jackson; Janek; Jones, D.; Jones, J.; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Longoria; Luna; Madden; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Oliveira; Park; Patterson; Pickett; Pitts; Place; Puente; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Rusling; Sadler; Saunders; Serna; Shields; Siebert; Smithee; Solis; Solomons; Stiles; Swinford; Tillery; Torres; Turner, B.; Van de Putte; Walker; West; Wohlgemuth; Wolens; Woolley; Zbraneck.

Present, not voting — Mr. Speaker(C); Edwards; Hartnett.

Absent, Excused — Hernandez; Staples.

Absent, Excused, Committee Meeting — Delisi; Gallego; Junell; Ogden.

Absent — Alexander; Alonzo; Bailey; Coleman; Davila; Goodman; Hochberg; Hudson; Lewis, R.; Maxey; Price; Seidlits; Williamson; Yost.

STATEMENT OF VOTE

When Record No. 450 was taken, I was in the house but away from my desk. I would have voted no.

Maxey

Amendment No. 9 was adopted without objection.

Amendment No. 10

On behalf of Representative Carona, Representative Danburg offered the following amendment to **CSSB 640**:

Amend **CSSB 640** as follows:

Add a new SECTION at line 4 on page 2 of **CSSB 640** and renumber all remaining SECTIONS accordingly, the new SECTION to read as follows:

"SECTION 4. Section 151.0038, Tax Code, is amended to read as follows:
Sec. 151.0038. "Information Service."

(a) "Information service" means:

(1) furnishing general or specialized news or other current information, including financial information, unless furnished to

(A) a newspaper or to a radio or television station licensed by the Federal Communications Commission; or

(B) a member of a homeowners association of a residential subdivision or condominium development, and is furnished by the association or on behalf of the association; or

(2) electronic data retrieval or research.

(b) In this section, "newspaper" has the the meaning assigned by Section 151.319(f)."

Amendment No. 10 was adopted without objection.

CSSB 640, as amended, was passed to third reading.

SB 641 ON SECOND READING
(Holzheuser - House Sponsor)

The speaker laid before the house, on its second reading and passage to third reading,

SB 641, A bill to be entitled An Act relating to administration and collection of certain insurance taxes.

The bill was read second time and was passed to third reading.

SB 642 ON SECOND READING
(Holzheuser - House Sponsor)

The speaker laid before the house, on its second reading and passage to third reading,

SB 642, A bill to be entitled An Act relating to the appraisal of property for ad valorem taxation and the assessment and collection of ad valorem taxes.

The bill was read second time.

Amendment No. 1 (Committee Amendment No. 1)

Representative Holzheuser offered the following committee amendment to the bill:

Amend **SB 642** as follows:

(1) On page 6, line 2, strike the sentence beginning after "(1)" and substitute "the taxing unit does not send another tax bill on the property in question at least 21 days before the delinquency date to the current mailing address furnished by the property owner and the property owner establishes that a current mailing address was furnished to the appraisal district by the property owner for the tax bill before September 1 of the year in which the tax is assessed; or".

(2) On page 6, line 15, strike the sentence beginning after "[~~(b)~~]" and substitute "For the purposes of this section, a property owner is considered to have furnished a current mailing address to the taxing unit or to the appraisal district if the current address is expressly communicated to the appraisal district in writing or if the appraisal district received a copy of a recorded instrument transferring ownership of real property and the current mailing address of the new owner is included in the instrument or in accompanying communications or letters of transmittal.".

(3) On page 7, line 4, strike the sentence beginning after "[~~(c)~~]" and substitute "A property owner is not entitled to relief under Subsection (b) of this section if the property owner or the owner's agent furnished an incorrect mailing address to the appraisal district or the taxing unit or to an employee or agent of the district or unit.".

(4) On page 7, line 9, strike the sentence beginning after "g" and substitute "Taxes for which penalties and interest have been waived under Subsection (b) of this section must be paid within 21 days of the property owner having received a bill for those taxes at the current mailing address."

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Holzhauser offered the following amendment to the bill:

Amend **SB 642** by adding appropriately numbered sections to read as follows:

SECTION 1. Subsections (b) and (d) of Section 42.08, Tax Code, are amended to read as follows:

(b) Except as provided in subsection (d), a [A] property owner who appeals as provided by this chapter must pay taxes on the property subject to the appeal in the amount required by this subsection before the delinquency date or the property owner forfeits the right to proceed to a final determination of the appeal. The amount of taxes the property owner must pay on the property before the delinquency date to comply with this subsection is:

(1) the amount of taxes due on the portion of the taxable value of the property that is not in dispute or the amount of taxes imposed on the property in the preceding year, whichever is greater; or

(2) the amount of taxes due on the property under the order from which the appeal is taken.

(d) After filing an oath of inability to pay the taxes at issue, a party may be excused from the requirement of prepayment of tax as a prerequisite to appeal, if the court after notice and hearing, finds that such prepayment would constitute an unreasonable restraint upon the party's right of access to the courts. On the motion of a party, the court shall hold a hearing to review and determine compliance with this section, and the reviewing court may set such terms and conditions on any grant of relief as may be reasonably required by the circumstances. If the court determines that the property owner has not substantially complied with this section, the court shall dismiss the pending action. If the court determines that the property owner has substantially but not fully complied with this section, the court shall dismiss the pending action unless the property owner fully complies with the court's determination within 30 days of the determination.

SECTION 5. Section 112.108, Tax Code, is amended to read as follows: Sec. 112.108. Other Actions Prohibited. Except for a restraining order or injunction issued as provided by this subchapter, a court may not issue a restraining order, injunction, declaratory judgment, writ of mandamus or prohibition, order requiring the payment of taxes or fees into the registry or custody of the court, or other similar legal or equitable relief against the state or a state agency relating to the applicability, assessment, collection, or constitutionality of a tax or fee covered by this subchapter or the amount of the tax or fee due; provided, however, that after filing an oath of inability to pay the tax, penalties, and interest due, a party may be excused from the requirement of prepayment of tax as a prerequisite to appeal, if the court, after

notice and hearing, finds that such prepayment would constitute an unreasonable restraint upon the party's right of access to the courts. The court may grant such relief as may be reasonably required by the circumstances. A grant of declaratory relief against the state or a state agency shall not entitle the winning party to recover attorney fees.

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Howard offered the following amendment to the bill:

Amend **SB 642** as follows:

(1) Between Sections 11 and 12 (house committee printing, page 7, between lines 12 and 13), insert the following section and renumber subsequent sections accordingly:

SECTION 12. (a) This section applies only to a county with a population of more than 225,000.

(b) An exemption from ad valorem taxation adopted by the commissioners court of a county under Section 11.13(n), Tax Code, after May 1, 1995, for the 1995 tax year is validated as of the date the exemption was adopted.

(c) The ad valorem taxation proceedings of the county occurring after the adoption of the exemption are validated and may not be held invalid because the exemption under Section 11.13(n), Tax Code, was not adopted in accordance with that section.

(d) This section does not apply to any matter that on the effective date of this Act:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court of competent jurisdiction; or

(2) has been held invalid by a final judgment of a court of competent jurisdiction.

(e) This section expires January 1, 1996.

(2) Strike Sections 13 and 14 (house committee printing, page 7, lines 19-24) and substitute the following:

SECTION 14. (a) Except as provided by Subsection (b) of this section, this Act takes effect January 1, 1996.

(b) Section 12 of this Act takes effect immediately.

SECTION 15. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

Amendment No. 3 was adopted without objection.

SB 642, as amended, was passed to third reading.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Calendars, 5:45 p.m today, speakers committee room.

SB 643 ON SECOND READING
(Holzheuser - House Sponsor)

The speaker laid before the house, on its second reading and passage to third reading,

SB 643, A bill to be entitled An Act relating to the administration, imposition, collection, and enforcement of mixed beverage taxes.

The bill was read second time.

Amendment No. 1

Representative Yarbrough offered the following amendment to the bill:

Amend **SB 643** as follows:

On page 6, line 14, insert the following as SECTION 7 of the bill, and renumber the remaining SECTIONS of the bill accordingly:

SECTION 7. (a). If **HB 1419**, 74th Legislature, Regular Session, 1995, adding new Sections 28.18 and 32.23 to the Alcoholic Beverage Code, is enacted and becomes law, Subdivision (1), Subsection (b), Section 183.001, Tax Code, is amended to read as follows:

(1) "Permittee" means a mixed beverage permittee, ~~or~~ a private club registration permittee, a private club exemption certificate permittee, a private club late hours permittee, a daily temporary private club permittee, a private club registration permittee holding a food and beverage certificate, a daily temporary mixed beverage permittee, a mixed beverage late hours permittee, a mixed beverage permittee holding a food and beverage certificate, or a caterer permittee.

(b) The change in law made by this SECTION shall be effective September 1, 1995. If **HB 1419**, 74th Legislature, Regular Session, 1995, adding new Sections 28.18 and 32.23 to the Alcoholic Beverage Code, is not enacted and does not become law, this SECTION shall not take effect.

Amendment No. 1 was adopted without objection.

SB 643, as amended, was passed to third reading.

SB 644 ON SECOND READING
(Holzheuser - House Sponsor)

The speaker laid before the house, on its second reading and passage to third reading,

SB 644, A bill to be entitled An Act relating to administration and collection of the franchise tax.

The bill was read second time.

Amendment No. 1 (Committee Amendment No. 1)

Representative Holzheuser offered the following committee amendment to the bill:

Amend SECTION 19, Section 171.203(d) after the words "currently employed by the corporation" by adding "or a related corporation listed in Subsection (a)(1) or (2) above" prior to the period "." at the end of the sentence.

Amendment No. 1 was adopted without objection.

SB 644, as amended, was passed to third reading.

SB 693 ON SECOND READING
(Gray - House Sponsor)

The speaker laid before the house, on its second reading and passage to third reading,

SB 693, A bill to be entitled An Act relating to prison inmate liability for destruction of property at the Texas Department of Criminal Justice.

The bill was read second time.

Representative Gray moved to lay **SB 693** on the table subject to call.

The motion prevailed without objection.

SB 750 ON SECOND READING
(Uher - House Sponsor)

The speaker laid before the house, on its second reading and passage to third reading,

SB 750, A bill to be entitled An Act relating to the creation of a license management program for certain commercial fishing.

The bill was read second time and was passed to third reading.

(Junell now present)

SB 1262 ON SECOND READING
(Junell - House Sponsor)

The speaker laid before the house, on its second reading and passage to third reading,

SB 1262, A bill to be entitled An Act relating to the management, development, accounting, and disposition of certain state property.

The bill was read second time.

Amendment No. 1

Representative Junell offered the following amendment to the bill:

Amend the House Committee Report for **SB 1262** as follows:

(1) Strike the phrase "or Legislative Budget Board" wherever it appears in the bill.

(2) Strike the phrase "and Legislative Budget Board" wherever it appears in the bill, except in SECTION 7 of the bill.

(3) On page 5 strike the language after the period on line 17 through the underlined language on line 24.

(4) On page 4, line 1 strike proposed subsection (3) and insert in lieu thereof the following:

"(3) notwithstanding subsections (1) and (2), a otherwise directed pursuant to the procedures of Chapter 317, Government Code."

Amendment No. 1 was adopted without objection.

SB 1262, as amended, was passed to third reading.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today to attend a meeting of the conference committee on HB 1:

Junell on motion of Raymond.

SJR 36 ON SECOND READING
(Counts - House Sponsor)

The speaker laid before the house, on its second reading and passage to third reading,

SJR 36, A joint resolution proposing a constitutional amendment to authorize the legislature to exempt from ad valorem taxation certain property of certain organizations chartered by the Congress of the Republic of Texas.

A record vote was requested.

The resolution was read second time and was adopted by (Record 451): 132 Yeas, 3 Nays, 7 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Chisum; Clemons; Coleman; Combs; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Davila; De La Garza; Dear; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Glaze; Goodman; Goolsby; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Stiles; Swinford; Talton; Telford; Tillery; Torres; Turner, B.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Nays — Carter; Danburg; Gray.

Present, not voting — Mr. Speaker(C); Alvarado; Conley; Giddings; Thompson; Turner, S.; Wilson.

Absent, Excused — Hernandez; Staples.

Absent, Excused, Committee Meeting — Delisi; Gallego; Junell; Ogden.

Absent — Davis; Luna.

SB 1150 ON THIRD READING
(Driver - House Sponsor)

The speaker laid before the house, on its third reading and final passage,

SB 1150, A bill to be entitled An Act relating to continuing education of insurance adjusters by reciprocity.

A record vote was requested.

The bill was read third time and was passed by (Record 452): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Coleman; Combs; Conley; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culbertson; Danburg; Davila; Davis; De La Garza; Dear; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hernandez; Staples.

Absent, Excused, Committee Meeting — Delisi; Gallego; Junell; Ogden.

Absent — Cook; Hochberg; Williamson.

SB 600 ON THIRD READING

(Berlanga, Coleman, McDonald, Maxey, and Hirschi - House Sponsors)

The speaker laid before the house, on its third reading and final passage,

SB 600, A bill to be entitled An Act relating to the development of certain standards and complaint system guidelines for managed care organizations covering Medicaid clients.

The bill was read third time and was passed.

SB 601 ON THIRD READING

(Berlanga, Coleman, McDonald, Maxey, and Hirschi - House Sponsors)

The speaker laid before the house, on its third reading and final passage,

SB 601, A bill to be entitled An Act relating to certain educational programs and support services under a managed care Medicaid program.

A record vote was requested.

The bill was read third time and was passed by (Record 453): 138 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Clemons; Coleman; Combs;

Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Davila; Davis; De La Garza; Dear; Denny; Driver; Dukes; Duncan; Dutton; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Munoz; Naishtat; Nixon; Oakley; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hernandez; Staples.

Absent, Excused, Committee Meeting — Delisi; Gallego; Junell; Ogden.

Absent — Chisum; Danburg; Edwards; Giddings; Mowery.

SB 602 ON THIRD READING

(Berlanga, Coleman, McDonald, Maxey, and Hirschi - House Sponsors)

The speaker laid before the house, on its third reading and final passage,

SB 602, A bill to be entitled An Act relating to the development and implementation of a computer database to reduce fraud and abuse in the Medicaid program.

The bill was read third time and was passed.

SB 604 ON THIRD READING

(Berlanga, Coleman, McDonald, Maxey, and Hirschi - House Sponsors)

The speaker laid before the house, on its third reading and final passage,

SB 604, A bill to be entitled An Act relating to a pilot program for the establishment of medical savings accounts to assist Medicaid recipients.

A record vote was requested.

The bill was read third time and was passed by (Record 454): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.;

Jackson; Janek; Johnson; Jones, D.; Jones, J.; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Munoz; Naishtat; Nixon; Oakley; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbrank.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hernandez; Staples.

Absent, Excused, Committee Meeting — Delisi; Gallego; Junell; Ogden.

Absent — Alonzo; Mowery.

SB 605 ON THIRD READING

(Berlanga, Coleman, McDonald, Maxey, and Hirschi - House Sponsors)

The speaker laid before the house, on its third reading and final passage,

SB 605, A bill to be entitled An Act relating to the duty of the Texas Department of Mental Health and Mental Retardation to evaluate and revise its sliding fee schedules.

A record vote was requested.

The bill was read third time and was passed by (Record 455): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culbertson; Danburg; Davila; Davis; De La Garza; Dear; Denny; Driver; Dukes; Duncan; Dutton; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbrank.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hernandez; Staples.

Absent, Excused, Committee Meeting — Delisi; Gallego; Junell; Ogden.

Absent — Edwards.

SB 882 ON THIRD READING
(Brimer - House Sponsor)

The speaker laid before the house, on its third reading and final passage,

SB 882, A bill to be entitled An Act relating to the placement of specific information logo signs and major shopping area guide signs on certain public highways.

A record vote was requested.

The bill was read third time and was passed by (Record 456): 136 Yeas, 1 Nay, 1 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Davila; Davis; De La Garza; Dear; Denny; Driver; Dukes; Duncan; Dutton; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, J.; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbraneck.

Nay — Danburg.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hernandez; Staples.

Absent, Excused, Committee Meeting — Delisi; Gallego; Junell; Ogden.

Absent — Averitt; Edwards; Jones, D.; Lewis, R.; Williamson; Willis.

SB 1063 ON THIRD READING
(Brimer - House Sponsor)

The speaker laid before the house, on its third reading and final passage,

SB 1063, A bill to be entitled An Act relating to the regulation of package stores.

The bill was read third time.

Amendment No. 1

Representative Seidlits offered the following amendment to the bill:

Amend **SB 1063** on third reading by striking 2nd reading Amendment No. 3 by Seidlits.

Amendment No. 1 was adopted without objection.

SB 1063, as amended, was passed. (Horn, Madden, McCall, Patterson, Solomons, and Talton recorded voting no)

HR 971 - ADOPTED

Representative Moffat moved to suspend all necessary rules to take up and consider at this time **HR 971**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Moffat,

HR 971, Expressing sympathy to the faculty and students of Northwest High School and commending them for their strength and compassion during this difficult time.

The resolution was adopted without objection.

On motion of Representative Oakley, the names of all the members of the house were added to **HR 971** as signers thereof.

HR 973 - ADOPTED

Representative Moffat moved to suspend all necessary rules to take up and consider at this time **HR 973**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Moffat,

HR 973, Congratulating Phil R. Parker on his receipt of the 1995 D. E. Box Citizen of the Year Award.

The resolution was adopted without objection.

HR 972 - ADOPTED

Representative R. Lewis moved to suspend all necessary rules to take up and consider at this time **HR 972**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Dutton,

HR 972, Honoring Mildred Gregory on the occasion of her retirement.

The resolution was adopted without objection.

HR 974 - ADOPTED

Representative Berlanga moved to suspend all necessary rules to take up and consider at this time **HR 974**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Berlanga, et al.,

HR 974, Congratulating Representative Gilbert Serna on the occasion of his birthday.

The resolution was read and was adopted without objection.

On motion of Representatives Danburg and R. Cuellar, the names of all the members of the house were added to **HR 974** as signers thereof.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Public Safety, on adjournment today, Desk 43, to consider pending business.

Public Health, on adjournment today, Desk 138.

House Administration, on adjournment today.

ADJOURNMENT

Representative Black moved that the house adjourn until 10 a.m. tomorrow.

The motion prevailed without objection.

The house accordingly, at 6:05 p.m., adjourned until 10 a.m. tomorrow.

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

Civil Practices - **SB 417, SB 1306, SB 1435, SB 1581**

Corrections - **SB 569**

County Affairs - **SB 74, SB 755, SB 1366, SB 1437**

Criminal Jurisprudence - **SB 272, SB 342, SB 431, SB 494, SB 676, SB 919, SB 1049, SB 1197, SB 1217, SB 1403**

Environmental Regulation - **SB 1697**

Financial Institutions - **SB 132, SB 752, SB 804, SB 1128**

Higher Education - **SCR 135**

Human Services - **SB 131, SB 805, SB 1226, SCR 38**

Insurance - **SB 607, SB 1361, SB 1618**

Judicial Affairs - **SB 1338, SB 1720**

Juvenile Justice and Family Issues - **SB 577**

Land and Resource Management - **SB 312, SB 1376, SB 1396, SB 1397**

Natural Resources - **SB 1709, SB 1714**

Public Health - **SB 1478**

State Affairs - **SB 20, SB 1227, SB 1295, SJR 1**

Ways and Means - **SB 101, SB 345**

ENGROSSED

May 16 - **HB 1856, HB 3173, HB 3181, HB 3186, HB 3187, HB 3192, HB 3215, HB 3221, HB 3222, HB 3230**

ENROLLED

May 16 - **HB 94, HB 172, HB 654, HB 795, HB 1157, HB 1226, HB 1271, HB 1505, HB 2020, HB 2093, HB 2182, HB 2283, HB 2507, HB 3116, HCR 69, HCR 91, HCR 102, HCR 175**

SENT TO THE GOVERNOR

May 17 - **HB 94, HB 172, HB 654, HB 795, HB 1157, HB 1226, HB 1271, HB 1505, HB 2020, HB 2093, HB 2182, HB 2283, HB 2507, HB 3116, HCR 69, HCR 91, HCR 102, HCR 175**

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